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UNITED STATES DISTRICT COURT

Original Filed
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The Northern Mariana Islands

ORIGINAL

In the Matter of the Search of

(Name, address or brief description of person or property to be searched)

JUN 29 2005

SEARCH WARRANT

The apartment home of DAI Xiao Jun, located above the Guang Zhou Restaurant, on the corner of Coral Tree Avenue and Date Street in Garapan Saipan, CNMI. "B-3" is written on the front door of the apartment.

Clerk
District Court
for The Northern Mariana Islands
Case Number MC 05

Filed 6-29-05
10:00 PM
Alex R Munson
Judge

TO: Special Agent Matt Goward, U.S. I.C.E. and any Authorized Officer of the United States

Affidavit(s) having been made before me by Special Agent Matt Goward, U.S. I.C.E. who has reason to believe
Affiant

that ☐ on the person of, or ☒ on the premises known as (name, description and/or location)

The apartment home of DAI Xiao Jun, located above the Guang Zhou Restaurant, on the corner of Coral Tree Avenue and Date Street in Garapan, Saipan CNMI. "B-3" is written on the front door of the apartment.

in the _____ District of The Northern Mariana Islands there is now
concealed a certain person or property, namely (describe the person or property)

See attachment A

I am satisfied that the affidavit(s) and any record testimony establish probable cause to believe that the person or property so described is now concealed on the person or premises above-described and establish grounds for the issuance of this warrant.

YOU ARE HEREBY COMMANDED to search on or before July 1, 2005
Date

(not to exceed 10 days) the person or place named above for the person or property specified, serving this warrant and making the search ☐ in the daytime — 6:00 AM to 10:00 P.M. ☒ at anytime in the day or night as I find reasonable cause has been established and if the person or property be found there to seize same, leaving a copy of this warrant and receipt for the person or property taken, and prepare a written inventory of the person or property seized and promptly return this warrant to _____ as required by law.

U.S. Judge or Magistrate

6-29-2005 10:00 PM
Date and Time Issued

Alex R Munson
Name and Title of Judicial Officer

at Saipan, NM
City and State

Alex R Munson
Signature of Judicial Officer

EXHIBIT
D

(FOR THE DISTRICT OF THE NORTHERN MARIANA ISLANDS) JUN 29 2005

In the Matter of the Search of
(Name, address or brief description of person, property or premises to be searched)
The apartment home of DAI Xiao Jun, located above the Guang Zhou Restaurant, on the corner of Coral Tree Avenue and Date Street in Garapan Saipan, CNMI. "B-3" is written on the front door of the apartment.

Clark
District Court
Application and Affidavit
FOR SEARCH WARRANT
MC 05 00101
CASE NUMBER:

Filed 6-29-2005
10:00 PM
Alex R. Munson
Judge

I, Special Agent Matt Goward, being duly sworn depose and say:
Special Agent, Office of Investigations
I am a Immigration and Customs Enforcemnt
Official Title

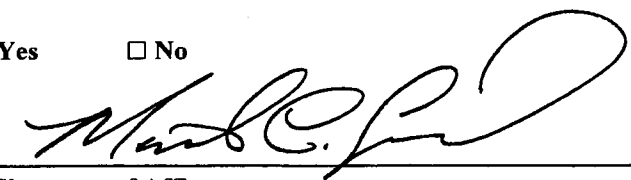
and have reason to believe

that ☐ on the person of or ☒ on the property or premises known as (name, description and/or location)
Apartment B-3 above the Guang Zhou restaurant, at the corner of Coral Tree avenue and Date Street, in Garapan, Saipan
in the Judicial District of the Northern Mariana Islands
there is now concealed certain property, namely
SEE ATTACHMENT "A"

which is (state one or more bases for search and seizure set forth under Rule 41(b) of the Federal Rules of Criminal Procedure)
SEE ATTACHED AFFIDAVIT

Concerning a violation of Title 18 United States code, Section(s) 2320, 21 USC 353(b)(1), 21 USC 333(b)
The facts to support a finding of Probable Cause are as follows:
SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof.

☒ Yes ☐ No

Signature of Affiant

Sworn to before me, and
subscribed in my presence

6-29-2005 at Saipan, NM
Date 10:00 PM City and State
ALEX R. MUNSON
United States Magistrate Judge
Name and Title of Judicial Officer


Signature of Judicial Officer

ATTACHEMENT "A"

Your affiant seeks authority to search the residence for:

a) Books, records, receipts, notes, ledgers, airline tickets, bank records, money orders, computers, computer disks to include hard drives, diskettes, CD's, magnetic tape, printed emails, memory cards, memory sticks, portable drives and any other computer storage media and other papers relating to the transportation, ordering, sale, and distribution of illicit controlled substances.

b) Currency, financial instruments, or other indicia of payments made for prescription medication.

c) Books, records, receipts, notes, airline tickets, and other records evidencing significant cash expenditures, such as aircraft, boats, vehicles, and other items of value that are the proceeds of illegal drug transactions, and further showing the concealment of the source and ownership of such cash, proceeds, and items of value by use of false names, aliases, postal box addresses, addresses of relatives and acquaintances, sham corporations, and other such devices.

d) Telephone and address books or papers that reflect names, addresses, and/or telephone numbers for their associates in dealing in illicit controlled substances and persons or entities from whom proceeds of drug transactions or other items of value have been obtained and in what manner said proceeds are presently maintained.

e) Tapes containing recorded messages on telephone answering machines and access to record the telephone numbers attached to any caller-identification system which may be present in the area to be searched.

f) Books, records, receipts, notes, identification documents, and other papers indicating that the persons associated with the activities described within this Affidavit are presently using aliases or assumed names and are representing themselves to others under these assumed or alias names in order to hide and conceal themselves from law enforcement authorities to disguise their current activities.

g) Viagra and other prescription medications in bulk quantity.

h) Scales and weighing devices.

i) United States currency and foreign currency.

j) Articles of personal property tending to establish the identity of persons in control of the area to be searched, including, but not limited to, utility company receipts, addressed envelopes, keys, photographs, and business records.

AFFIDAVIT

1. I, Matthew Lee Goward, (your affiant), a Senior Special Agent with the Immigration and Customs Enforcement (ICE), being duly sworn, depose and state the following:

2. This affidavit is in support of a search warrant application for the residence located at the corner of Date street and Coral Tree avenue, above the Guang Zhou restaurant in Apartment B-3. The residence is further described as an apartment located on the top floor of the building that is designated with the markings in black "B-3" above a gray door. The door has a single bolt lock without handle.

3. Your affiant seeks authority to search the residence for:

a) Books, records, receipts, notes, ledgers, airline tickets, bank records, money orders, computers, computer disks to include hard drives, diskettes, CD's, magnetic tape, printed emails, memory cards, memory sticks, portable drives and any other computer storage media and other papers relating to the transportation, ordering, sale, and distribution of illicit controlled substances.

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Agent Background

4. I am a special agent with the Immigration and Customs Enforcement having been so employed for over four years. I am currently assigned to the Resident Agent in Charge of Investigations in Guam. I am a graduate of the Federal Law Enforcement Training Center's (FLETC) Criminal Investigator's Training Program and the United States Customs Basic Enforcement School (CBES), in Glynnco, Georgia. While attending FLETC, I received extensive training related to federal criminal procedures and investigative techniques. I have been the affiant on at least ten search warrants involving electronic communications and have assisted in the service of at least 30 search warrants involving narcotics and/or child pornography. I have been the lead case agent in numerous international investigations involving subjects located in at least 20 U.S. states and 10 foreign countries for both narcotics and child pornography. I have also received training from the California Department of Justice (CalDOJ) regarding Internet crime investigations. I have been involved in at least 3 major national investigations into the distribution of child pornography. In one of the national investigations, I was the initiating and lead case agent for the investigation. In October 2003, I received an award as Special Agent of the Year for the San Diego Office for my work on that investigation. Prior to my current employment, I was a Special Agent with the Coast Guard Investigative Service for two years, and a Senior Patrol Agent with the U.S. Border Patrol Agent for six years. I am a graduate of the University of Phoenix, where I received a Bachelor of Science degree in Information Systems Management. I am also certified as an A+ computer technician and have received training and been certified by the US Customs Service as a Computer Forensics Examiner. In 1999 I attended a two week DEA Task Force Agent indoctrination course relating to narcotics investigations in San Diego, California.

5. As a federal agent, your affiant is authorized to investigate violations of laws of the United States and is a law enforcement officer with the authority to execute warrants issued under the authority of the United States.

Introduction

6. I know from my training and experience that narcotics and prescription drug smugglers will often attempt to utilize the mail to facilitate the distribution of their product. I also know that it is a common method for these smugglers to utilize the express mail system as it provides them a means of tracking their shipments. It is also common for smugglers to attempt to hide the shipment inside various types of objects so as to obscure the true nature of the shipment.

7. I know from my training and experience that China is well known as a source country for smuggling of counterfeit prescription drugs and other counterfeit products into the United States.

8. I have had experience in communicating with law enforcement personnel who specialize in the area of documentation and detection of proceeds from drug trafficking. I have had experience in debriefing numerous defendants, informants and witnesses who have personal knowledge of drug organizations. Such individuals often have personal information as to the transportation and distribution of money and drugs in large-scale controlled substance distribution operations.

9. During my investigation I have consulted with professionals who have specific expertise and knowledge regarding prescription medications. Based upon their information I have been made aware that Viagra is a commonly used prescription medication and that it is often misused by people requesting it. I have also been made aware that there is a large underground demand for Viagra, based upon the social stigma associated with the disease that it treats. I am also aware that this prescription medication is often sold under the counter for \$30 a pill at many Chinese owned markets on Saipan, and that this is based upon the reluctance of Chinese immigrants to seek medical attention from western doctors.

10. Based upon my training and experience, I am aware that it is generally a common practice for drug traffickers to store their drug inventory and drug-related paraphernalia in their residences. Further, it is generally a common practice for drug traffickers to maintain in their residences records relating to their narcotics transactions. The trafficking of narcotics generates huge sums of money that require the keeping of detailed records. Because drug traffickers in many instances will front, or sell on consignment, controlled substances to their clients, or alternatively,

will be fronted controlled substances from their suppliers, such record-keeping is necessary to keep track of amounts paid and owed, and such records will also be maintained close at hand so as to readily ascertain current balances. Often drug traffickers keep pay and owe records to show balances due for drugs sold in the past and for payments expected as to the traffickers supplier(s) and the dealer(s). Additionally, drug traffickers must maintain telephone and address listings of clients and suppliers and keep them immediately available in order to efficiently conduct their drug trafficking business. On many occasions, I have observed handwritten notes which depict narcotic transactions in pay-and-owe records and in customer lists complete with telephone numbers and addresses. These records are kept by narcotics dealers whether or not the dealer is in actual possession of narcotics at any given moment.

11. It is also my opinion, based on training, experience, and observation, that the trafficking of large amounts of narcotics requires the cooperation and association of a number of people within a narcotics distribution organization. As a result, persons who traffic in narcotics will possess documents that identify other members of the organization, such as telephone books, address books, telephones bills, and documents containing lists of names. I also know from my training and experience that drug traffickers take or cause to be taken photographs of themselves, their associates, their property and their product, and these traffickers usually maintain these photographs at their premises.

12. In virtually all locations I have searched pursuant to a search warrant, I have personally observed utility bills pertaining to the location and personal letters addressed to occupants of the location. It is my opinion that within any location searched there will be keys that fit location locks, wallets, purses, diaries, and luggage tags, all of which contain in, or upon them, some personalization that tends to identify the owners thereof, thus, circumstantially identifying the occupant of the premises for the purpose of arrest, identification, and crime charging.

PROBABLE CAUSE

During the course of my investigation I have learned the following facts:

13. On June 12, 2005, a parcel from China destined for Saipan was intercepted at the San Francisco Mail Facility containing approximately 2.75 kilos of suspected counterfeit Viagra. The package was sent via express mail under express mail bill number EA676698549CN.

14. Further examination of the package revealed that the pills were wrapped in Chinese

newspaper and plastic and concealed inside a DVD player. The package was seized and referred to the RAC Guam for action. The package was addressed to a Chen JIAN at PMB 212, PO Box 10002, Saipan, 96950. The package was sent from Zhu JUN at No. 19 Wen Yi Road, Shene District, China. FDA Inspector Bobby Smith who was at the facility at the time of the seizure observed that the pills appeared to be counterfeit. While no lab tests were performed at the facility, Inspector Smith has had experience with counterfeit Viagra pills on previous occasions.

15. On June 14, 2005, SSA Matt Goward of the RAC Guam initiated an investigation into the suspect counterfeit Viagra. SSA Goward contacted Assistant US Attorney Jamie Bowers regarding the case and received approval for prosecution for the importation of counterfeit prescription medication. SSA Goward also contacted Postal Inspector Craig Hales regarding the case and to gather more information on the suspect receiving the package.

16. On June 17, 2005, SSA Goward received information from PI Hales regarding the destination of the package on Saipan. PI Hales provided information that PO Box 10002 belonged to a company called American Federal Group and that the American Federal Group acted as Commercial Mail Receiving Agency (CMRA). The CMRA acts as a private mail facility and distributes mail to customers that pay for their service, often at postal boxes located within the business.

17. Records checks on the American Federal Group business show that the business is owned by three people from the Peoples Republic of China. The business has been acting as a CMRA since 1994 and is located inside the Crown Market at the Chamorro Place Building, in Garapan, Saipan. The CMRA serves approximately 200 customers with box 212 being rented to a Bai YAN.

18. On June 17, 2005, SSA Goward received the evidence from the San Francisco Mail Facility. Inspection of the package sent from San Francisco showed that the inspectors had removed the Viagra from the packages within the DVD player and placed it inside an evidence bag. Also inserted into the box was a seizure notice indicating that the items had been seized.

19. Inspection of the DVD player revealed that the player had been used before. This was evident from the adhesive on stickers attached to the DVD player being extremely worn and from evidence of rust on the rear portion of the DVD player. Additionally, the parts on the DVD player did not fit together well and the screws showed evidence of wear.

20. On June 20, 2005, SSA Goward traveled to Saipan and received copies of documents relating to the CMRA and the Crown Market business. SSA Goward also visited the Crown Market. During the visit to the Crown Market, SSA Goward was able to identify one of the owners of the business working at the business. Inspection of the business did not reveal any post office boxes. A sign directly outside the business did however show that the CMRA was located at the market.

21. On June 23, 2005, SSA Goward received postal form 1583 from PI Hales for PMB 212 located at the CMRA. The postal form 1583 shows that PMB 212 belongs to a Bai YAN, ID# 0168-96. The form also shows that a Dai YAN and Dai Xiao JUN are listed to receive mail at PMB 212.

22. On June 23, 2005, SSA Goward and TFA Barbara Tayama contacted Registered Pharmacist Mildred Gabriel at the Rexall Pharmacy in Tamuning, Guam. Ms. Gabriel presented to SSA Goward and TFA Tayama authentic Viagra purchased through a local wholesaler. Comparison of the authentic Viagra and the suspect counterfeit Viagra revealed that the counterfeit Viagra was larger in length and width than the authentic product. Further examination also showed that the counterfeit product had a slightly darker blue tone than the authentic.

23. Ms. Gabriel performed a weight analysis between the two products and found that the counterfeit product was slightly heavier. This test was based on a 10 pill sample from both categories. SSA Goward and TFA Tayama inquired of Ms. Gabriel if any prescription medications from China were allowed into the United States. Ms. Gabriel stated that they weren't approved by the Food and Drug Administration and that Pharmacies were prohibited from purchasing medications from foreign countries. When asked if she thought that 4000 pills of Viagra was a reasonable amount for a pharmacy to have on hand, she stated that for the average pharmacy it would not be reasonable to have that quantity on hand.

24. On June 29, 2005, Special Agents from the Immigration and Customs Enforcement, United States Postal Service, Drug Enforcement Administration, CNMI Customs and CNMI Department of Labor executed a controlled delivery of the express mail package containing sham Viagra tablets to the Saipan US Post Office. The package was placed in the bin for PO Box 10002, belonging to a Commercial Mail Receiving Agency (CMRA) known as BBB, a.k.a. Golden Crown Market. The package was placed in the bin at approximately 1200 hours by PI Craig Hales. PI Hales observed the CMRA representative come to the box and pickup the mail designated for the CMRA. PI Hales observed the CMRA representative pickup the express mail package and place it inside a

beige colored Toyota van and drive away from the US Postal Facility.

25. Surveillance units observed the beige colored Toyota van drive north on Beach Road towards the Garapan, Saipan area. The van then turned right onto Navy Hill road and came to stop in front of the Golden Crown Market. The CMRA is located inside the Golden Crown Market. Your affiant observed the package being unloaded from the van and taken into the Golden Crown Market.

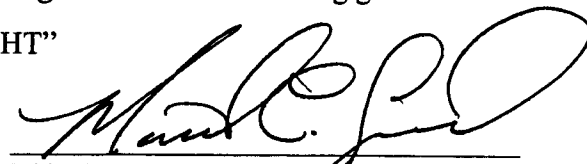
26. At approximately 1755 hours Major Ed Cabrerra observed a male subject, dressed in black riding a bicycle arrive at the Golden Crown Market. Major Cabrerra was able to identify the subject as Dai Xiao JUN, a person that is listed on Postal Form 1583 as receiving mail at box 212 from the CMRA. Several minutes later Dai Xiao JUN was observed leaving the CMRA with the package. Surveillance units followed Dai Xiao JUN as he traveled south on Navy Hill road towards the Hyatt hotel. JUN was then observed turning left down an alley and towards the Promenade area across from the Dai Ichi Hotel. JUN was then observed going inside the Liao Ti Tour agency business located in the Promenade area. Agents followed JUN into the business a few minutes later to observe that he had absconded through a secret door hidden behind a mirror in the rear of the business.

27. A search of the area and questioning of a female subject in the Liao Ti business lead Special Agents to an apartment above the Guang Zhou restaurant at the corner of Date street and Coral Tree avenue, directly across from the Dai Ichi hotel. The female subject directed agents to apartment B-3 located at the top of the stairs. Special Agents knocked on the door and announced their presence numerous times. Your affiant heard activity inside the apartment and in an effort to preserve the evidence forced entrance into the residence.

28. After gaining entrance into the residence, your affiant observed JUN in the bedroom of his apartment. After securing JUN, a safety sweep was made of the apartment for other subjects and dangerous weapons. During the sweep, Special Agents observed portions of the sham Viagra tablets on the desk in the bedroom, along with labels marked Viagra, and prescription bottles on the bed.

29. The residence was then secured pending a search warrant being granted.

."FURTHER THE AFFIANT SAYETH NAUGHT"


MATTHEW L. GOWARD
SENIOR SPECIAL AGENT

COPY

JUN 30 2005

Clerk
District Court
For The Northern Mariana Islands

1 LEONARDO M. RAPADAS
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2 JAMIE D. BOWERS
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3 DISTRICT OF THE NORTHERN
MARIANA ISLANDS
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7 Attorneys for United States of America

8
9 UNITED STATES DISTRICT COURT
NORTHERN MARIANA ISLANDS

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 DAI Xaio Jun

14
15 Defendant.

~~Criminal Case No. CR05-00022~~

MC 05 - 00101

SEARCH WARRANT RETURN and
INVENTORY

16
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26
27
28

RETURN

Case Number:

DATE WARRANT RECEIVED

6/29/05

DATE AND TIME WARRANT EXECUTED

6/29/05 10:15PM

COPY OF WARRANT AND RECEIPT FOR ITEMS LEFT WITH

AT RESIDENCE

INVENTORY MADE IN THE PRESENCE OF

SA JOHN DUENAS

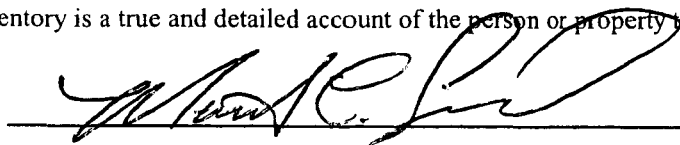
INVENTORY OF PERSON OR PROPERTY TAKEN PURSUANT TO THE WARRANT

SEE ATTACHED SHEET

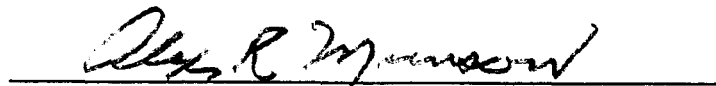
NOTHING FOLLOWS

CERTIFICATION

I swear that this inventory is a true and detailed account of the person or property taken by me on the warrant.



Subscribed, sworn to, and returned before me this date.



U.S. Judge or Magistrate

6-30-05

Date

ATTACHEMENT "A"

Your affiant seeks authority to search the residence for:

a) Books, records, receipts, notes, ledgers, airline tickets, bank records, money orders, computers, computer disks to include hard drives, diskettes, CD's, magnetic tape, printed emails, memory cards, memory sticks, portable drives and any other computer storage media and other papers relating to the transportation, ordering, sale, and distribution of illicit controlled substances.

b) Currency, financial instruments, or other indicia of payments made for prescription medication.

c) Books, records, receipts, notes, airline tickets, and other records evidencing significant cash expenditures, such as aircraft, boats, vehicles, and other items of value that are the proceeds of illegal drug transactions, and further showing the concealment of the source and ownership of such cash, proceeds, and items of value by use of false names, aliases, postal box addresses, addresses of relatives and acquaintances, sham corporations, and other such devices.

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g) Viagra and other prescription medications in bulk quantity.

h) Scales and weighing devices.

i) United States currency and foreign currency.

j) Articles of personal property tending to establish the identity of persons in control of the area to be searched, including, but not limited to, utility company receipts, addressed envelopes, keys, photographs, and business records.

1. 9 each large ziplock bag with suspected marijuana
2. 1 bag containing 7 ziplock bags each containing 5 marijuana sticks
3. 1 ziplock bag with marijuana
4. US Currency (undetermined amount)
5. Foreign Currency (undetermined amount)
6. Delivered Express mail parcel EA676698549CN
7. Numerous sealed bottles of Viagra
8. 11 packages of sham Viagra
9. 2 PRC China Passports
10. DHL Envelope containing suspect counterfeit Viagra labels and information
11. 1 box of unlabeled plastic bottles
12. 1 bag of unlabeled plastic bottles w/caps
13. 1 box of Zig Zag papers
14. 1 Ziplock bag with seals for plastic bottles
15. 1 envelope with Viagra fact sheet
16. 1 ziplock bag with Viagra pill and fact sheet
17. 1 bag Zig Zag papers
18. Miscellaneous ziplock bags
19. 2 bags Miscellaneous documents
20. 1 box of plastic bottles and caps
21. 1 Fujitsu laptop
22. 1 training certificate

-----NOTHING FOLLOWS-----